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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

N. Sundaresan

Serial No.: 09/672,304

Group Art Unit: 2164

Filed: September 29, 2000 **Examiner:** Alaubaidi, Haythim J.

For: METHOD AND SYSTEM FOR SELECTIVELY ACCESSING FILES ACCESSIBLE
THROUGH A NETWORK

Honorable Commissioner of Patents
Alexandria, VA 22313 - 1450

REPLY BRIEF

Sir:

This paper is a Reply Brief, which is a reply to the May 17, 2006, Examiner's Answer.

I. STATUS OF CLAIMS

Claims 1-23 are all the claims presently pending in the application. Claims 1-23 stand rejected under 35 U.S.C. § 103(a) as being anticipated by the Ronning et al. reference in view of the Yamane et al. reference.

In the August 19, 2005, Office Action, the Examiner newly rejects claims 1-23 under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement based upon an amendment which was filed on June 7, 2004. Therefore, claims 1-23 now also stand rejected under 35 U.S.C. § 112, first paragraph.

Claims 1, 7, 17, and 23 are independent.

All of the currently pending claims 1-23 are appealed.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellants present the following issues for review by the Board of Patent Appeals and Interferences.

A. The Obviousness Rejection

Whether the references applied by the Examiner in the obviousness rejection teach or suggest all the claim limitations.

In particular, all of the independent claims 1, 7, 17, and 23 recite setting an accessing time to access a second file on a server based on time data in a first file that includes an actual time when a second file is scheduled to be updated where the first file is downloaded from the server.

None of the applied references teaches or suggests setting an accessing time to access a second file on a server based on time data in a first file that includes an actual time when a second file is scheduled to be updated where the first file is downloaded from the server.

B. The Written Description Rejection

Whether one of ordinary skilled in the art would recognize in the original disclosure a description of the invention defined by the amended claims.

In particular, all of the independent claims 1, 7, 17, and 23 were amended on June 7, 2005, to further clarify the distinctions over the applied references by adding the term “actual” to clarify that the time is an “existing” or “real” time and not a time which is predicted.

A person of ordinary skill in the would have understood, at the time the patent application was filed, that the claims as amended are supported by the original disclosure.

III. ARGUMENTS

A. Claims 1-23 are Non-Obvious Over the Applied References

None of the applied references teaches or suggests the features of the present invention including: 1) setting an accessing time to access a second file on a server based on time data in a first file that includes an actual time when the second file is scheduled to be updated where the first file was downloaded from the server (independent claims 1 and 17); 2) setting an accessing time to re-access a server based on time data in a first file that includes an actual time when a second file is scheduled to be updated where the first file was downloaded from the server (independent claim 7); and 3) means for setting an accessing time to access a second file on a server based on time data in a first file that includes an actual time when the second file is scheduled to be updated where the first file was downloaded from the server (independent claim 23).

Appellant respectfully points out for the Examiner's benefit that the independent claims recite that the time data, which includes an actual time when the second file is scheduled to be updated, is from the first file which is downloaded from a server to a client. This time data does not correspond to the accessing time, which is set based upon the time data in the first file.

Appellant notes that the Examiner admits that the Ronning et al. reference does not teach or suggest:

“a- accessing time data from within the first file; [and]
b- wherein the time data is an actual time when said second file is scheduled to be updated.”

Again, Appellant respectfully reminds the Examiner that the claims recite that the first file, which contains the time data of the actual time when the second file is scheduled to be updated, is downloaded from a server.

In an attempt to remedy the deficiencies of the Ronning et al. reference, the Examiner refers to the Yamane et al. reference.

In particular, the Examiner appears to allege that Figure 2 of the Yamane et al. reference discloses accessing time data within a first file. The Examiner appears to allege that the tables that are illustrated in Figure 2 of the Yamane et al. reference correspond to the claimed first file.

However, contrary to the Examiner’s allegations, the tables/files that are disclosed in Figure 2 of the Yamane et al. reference do not correspond to the first file which was downloaded from a server to a client.

Rather, the files which are downloaded by the Yamane et al. reference only include data on when a file was last updated.

The files which are downloaded by the Yamane et al. reference from the server do not include any schedule at all.

Indeed, the Yamane et al. acknowledges the lack of such a schedule being available for download from the server because the Yamane et al. reference discloses trying to predict when files might be updated based only upon the data which is downloaded from the servers based

upon the times when these files have been updated in the past. Thus, the term “history” table.

In summary, the claims recite downloading a first file that includes an actual time when the second file is scheduled to be updated.

Clearly, the files which the system that is disclosed by the Yamane et al. reference do not include a schedule of when a second file is scheduled to be updated.

Appellant believes that the Examiner may be confusing the first file, which is downloaded from the server, with a file that is generated locally at a client as disclosed by the Yamane et al. reference.

In the Examiner’s Response to Arguments section of the Examiner’s Answer, the Examiner alleges that the Ronning et al. reference discloses “setting an accessing time to access a second file on a server.”

The Examiner acknowledges that the Ronning et al. reference does not explicitly teach that the time data includes an actual time when a second file is scheduled to be updated.

However, the Examiner does not allege that the Ronning et al. reference discloses the claimed subject matter.

In particular, the Examiner does not allege that the Ronning et al. reference discloses setting an accessing time based on time data from a first file that was downloaded from a server to the client.

The Ronning et al. reference very clearly does not download any files which include a time at which the second file is scheduled to be updated as recited by the claims.

Rather, the Ronning et al. reference discloses a system that provides for automatic

scheduling of downloads based upon input from the user, where the user specifies how and when to schedule the file to be downloaded next (“upon request by a user” [0003]; “permit the user to enter schedule information to control downloading of files and searching for updates to files” [0005]; “as entered by the user, including schedule information . . . permits the user to instruct the agent to search for updates on a periodic basis” [0072]; “permits the user to specify automatic downloads . . . permits the user to instruct the agent” [0073]; “programmed or instructed by the user” [0076]; “a user may enter a date in date section 781 and a time in time section 782 in order to schedule a download” [0081]; et seq.).

In other words, the Ronning et al. reference discloses receiving input from a user to schedule downloads.

The Examiner alleges that “Technically, Ronning (sic) along (sic) teaches the limitation “setting an accessing time to access a second file on a server based on time data that includes an actual time when the second file is scheduled to be updated.”

However, the claim language does not correspond to the Examiner’s limitation.

Indeed, the distinctions between what the Examiner alleges the claims recite and what is disclosed by the applied references illustrate the Examiner’s confusion.

Independent claim 1 recites: “setting an accessing time to access a second file on said server based on said time data from the first file, wherein said time data includes an actual time when said second file is scheduled to be updated.” (Emphasis added).

Thus, it is not just any time data that is recited by the independent claims. It is the time data from the first file. Further, it is not just any first file from which this time data is acquired,

the first file is downloaded from a server to a client.

The system that is disclosed by the Ronning et al. reference does not teach or suggest downloading a file from a server which includes a scheduled update time.

Rather, and in stark contrast, the Ronning et al. reference creates a local file with input received by a user to determine when to schedule future downloads (not updates).

The Examiner attempts to remedy the deficiencies of the Ronning et al. reference by referring to the Yamane et al. reference.

In particular, the Examiner alleges that the Yamane et al. reference discloses a prediction for scheduled update times.

As explained previously, the system disclosed by the Yamane et al. reference predicts when the data might be updated based upon the history of previous updates of the file. The system predicts when the data might be updated, downloads the data, checks to see if the data has really been updated and, if not, it refines the prediction of when the data might be updated (col. 8, lines 22 - col. 9, line 15).

The Yamane et al. reference does not remedy the deficiency of the Ronning et al. reference because, like the Ronning et al. reference, the Yamane et al. reference does not teach or suggest downloading a first file from a server that includes an actual time when the second file is scheduled to be updated.

The Yamane et al. reference, like the Ronning et al. reference does not teach or suggest downloading any file at all that contains data which includes a schedule of updates as recited by the claims.

The Yamane et al. reference merely downloads data regarding a history of past updates and then attempts to predict when the files might be updated and may then create a local file which includes a predicted schedule of when those files might be updated. That file is not downloaded, rather, that file is generated locally.

The Yamane et al. reference does not download this schedule from a server as recited by the claims.

Appellant respectfully requests a reversal of the Examiner's rejection and allowance of the present application.

B. The Amended Claims are Supported by the Original Description

Claims 1-23 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Appellant respectfully submits that the originally filed disclosure adequately supports the claimed subject matter.

Appellant, however, notes that the Examiner's Answer did not address the Appellant's traversal of the rejection that was presented in Appellant's Second Supplemental Appeal Brief of March 3, 2006. Therefore, in the interest of brevity, Appellant hereby incorporates by reference the un-addressed traversal herein in its entirety

Appellant respectfully submits that the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, appellant was in possession of the invention as now claimed. Therefore, Appellant respectfully requests a reversal of the Examiner's rejection and allowance of the present application.

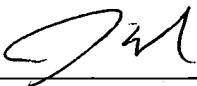
IV. CONCLUSION

In view of the foregoing, Appellant respectfully requests reversal of the final rejection and allowance of all of claims 1-23.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 09-0441.

Respectfully Submitted,

Date: 7/17/04



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